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SUMMARY RECORD OF THE 8th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 19 March 1998, at 3 p.m.

Chairman: Mr. CHOWDHURY (Bangladesh)
(Vice-Chairman)
later: Mr. SELEBI (South Africa)
(Chairman)

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In the absence of Mr. Selebi (South Africa), Mr. Chowdhury (Bangladesh), Vice-Chairman, took the Chair.

The meeting was called to order at 3 p.m.

STATEMENT BY MR. HANS VAN MIERLO, MINISTER FOR FOREIGN AFFAIRS OF THE NETHERLANDS

1. Mr. van MIERLO (Netherlands) said that for the United Nations member States that had adopted it the Universal Declaration of Human Rights represented a common ideal to be realized. Its fiftieth anniversary should provide an opportunity to consider what role the Declaration was playing today. Many people regarded it as an instrument to protect civil and political rights, forgetting that it set out, in articles 22 to 27, a number of economic, social and cultural rights. What had become of those rights? Regrettably, one was forced to conclude that there was still a long way to go before they could be realized, for wealth was still not fairly distributed and the amount of poverty in the world was staggering. Some 1.3 billion people had to survive on less than 1 dollar a day. Almost a billion of the world's people were illiterate, an equal number were hungry, and a billion had no access to drinking water. Worse still, almost a third of the people in the least developed countries would not live to the age of 40.

2. That hard reality laid a number of obligations on Governments, whose duty it was to guarantee the rights and freedoms proclaimed in the Universal Declaration. In terms of economic, social and cultural rights, that meant that Governments must promote economic growth while ensuring equitable distribution of wealth so as to guarantee social security for all members of society, not forgetting the weakest. Growth was only one aspect of development; there were many others, such as social justice, equitable income distribution, or again protection of the environment. Only by giving people a say in determining the course to be taken would Governments be able to create the conditions for lasting prosperity for everyone.

3. The world had changed considerably since 1948. At that time, the idea had been to codify human rights in order to protect the individual against Governments, which had then still been the most important concentration of power. Currently new actors, ranging from small and medium-sized businesses to gigantic financial and commercial conglomerates, had to take on an increasing share of responsibility in that regard. The Universal Declaration of Human Rights had not been designed for that type of situation. There were examples of extreme and unscrupulous behaviour on the part of companies that would stop at nothing to make profits. That was why he was convinced of the need to lay down a basic ethical standard that would apply to everyone, i.e. not only to Governments but also to citizens interacting with one another, on the same footing as the Universal Human Rights. Fortunately, some multinationals had already taken the matter to heart and codes of conduct endorsing the importance of respecting human rights had become commonplace. Governments should be encouraging initiatives of that kind. Such codes should lay down procedures for inquiries into any violations, as did the OECD code and a number of ILO codes. Another welcome development was the increasing responsiveness to human rights of international organizations like the IMF and the World Bank.

4. He urged the Commission to mark the fiftieth anniversary of the Universal Declaration of Human Rights by engaging in a constructive, prejudice-free dialogue on economic, social and cultural rights and how to put them into effect. For its part, the Netherlands Government was endeavouring to give concrete expression to its commitment to promote the realization of those rights through international cooperation in accordance with article 2 of the International Covenant on Economic, Social and Cultural Rights. So far those rights had been dealt with separately from civil and political rights but, as had been reaffirmed in the Vienna Declaration adopted in 1993, all human rights were universal, indivisible, interdependent and interrelated. The international community had also committed itself, in that same Declaration, to treating human rights globally, in a fair and equal manner, on the same footing, and with the same emphasis. It must bear that in mind and act accordingly in the 50 years to come.

STATEMENT BY MS. MINA MAZAI, DEPUTY MINISTER FOR FOREIGN AFFAIRS OF BELARUS

5. Ms. MAZAI (Belarus) said that the progress already made by humanity in implementing the provisions of the Universal Declaration of Human Rights gave grounds for hoping that the principles of the Declaration would one day prevail. But hope was not enough. Concerted measures based on the principles of solidarity, cooperation and mutual trust must be taken at the international, regional and national levels.

6. A development to be welcomed in that regard was the appeal put out by the United Nations High Commissioner for Human Rights for a partnership between Governments, United Nations bodies and agencies, and governmental and non-governmental organizations (NGOs). In that connection she stressed the importance of the role played by NGOs and expressed the hope that the Commission would be able to adopt the draft declaration on human rights defenders. She also welcomed the activities undertaken in connection with the United Nations Decade for Human Rights Education. She added that Belarus fully shared the view expressed by the Secretary-General in his programme for the reform of the United Nations (A/51/950) to the effect that respect for human rights was an integral part of the promotion of peace and security, economic prosperity and social equity. The introduction of human rights considerations in the core areas of the programme of work of the United Nations would require an increase in the resources of the Office of the High Commissioner for Human Rights, both under the regular budget and in the form of voluntary contributions, with a view to strengthening advisory services and technical assistance to countries. To that end, Belarus intended to pay its first contribution as an independent State to the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights. Her Government hoped that the programme for the strengthening of its human rights promotion capabilities which it had prepared in cooperation with UNDP and a number of national NGOs would be effectively implemented.

7. With regard to the functioning of the Commission, Belarus unreservedly supported the Chairman's appeal to States to refrain from using it as a political forum. In requital the Commission, when considering country situations, must show that it could take a balanced approach, based on openness, respect and dialogue. It must also display attentiveness to the new voices that were being heard.

8. Regional organizations and treaties also had an important part to play in the human rights field. Belarus accordingly welcomed the strengthening of cooperation between the High Commissioner for Human Rights and organizations such as OSCE or the Council of Europe. OSCE had, she added, sent to Belarus a group of observers to advise the Government on the legislative, judicial, institutional and educational measures to be taken in the human rights field to consolidate the current democratization process.

9. The broadening of participation in international treaties on human rights was an important parameter for ensuring the universal application of those rights. Unfortunately, there often proved to be a considerable gap between the standards laid down in those instruments and the reality of the human rights situation on the ground. Solving that problem would require not only genuine political will, but also economic and social action, as summed up in the formula "democracy, development, human rights". As a young country going through a transition, Belarus was especially well aware of the interaction between civil and political rights on the one hand and economic, social and cultural rights on the other. The changeover from totalitarianism to democracy was never simple. Her own Government was determined upon unreserved respect for human rights and fundamental freedoms and hoped that, through the concerted efforts of the international community, the forthcoming millennium would see the realization of the principle of human rights for all.

STATEMENT BY MR. VALDIS BIRKAVS, MINISTER FOR FOREIGN AFFAIRS OF LATVIA

10. Mr. BIRKAVS (Latvia) recalled that in 1948, the year of the adoption of the Universal Declaration, tens of thousands of Latvian civilians, classified as public enemies, had been deported to Siberia by the Soviet regime. During the 50 years that the occupation of Latvia had lasted, anyone daring to defend human rights had been imprisoned or deported. Those freedom fighters, among them Gunars Astra, who had spent 20 years of his life in prison, had shown by their strength of character that no power could strangle a people's aspiration to freedom and to democracy based on the rule of law.

11. The year 1988 had been marked by a massive gathering organized in Riga in tribute to the victims of communism and by the birth of a movement which had led to Latvia's finally recovering its independence without a bloodbath and without violence. Soon after, with the help of the Office of the High Commissioner for Human Rights and UNDP and applying the principles set out in the Vienna Declaration and Programme of Action, Latvia had developed a national programme for the protection and promotion of human rights whose cornerstone was the National Human Rights Office. Latvia was grateful to the Office of the High Commissioner for Human Rights, to UNDP and to the Netherlands, Swedish and Finnish Governments for the contributions they had made to the execution of that programme.

12. Latvia supported the recent initiatives taken by the High Commissioner for Human Rights to establish a worldwide network of independent national institutions and had decided to contribute regularly to the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights. It was also grateful for the help received from UNDP, whose activities had contributed to revitalizing the many non-governmental organizations which were

active in promoting human rights in the country. The objective was to educate society so that each individual would know about human rights and be able to defend them.

13. Latvia paid particular attention to the most vulnerable social groups, including national minorities, which it considered as constituting an integral part of society. Since the independence of the State had been restored, not one case of racial or ethnic violence had been reported. The State financed secondary education in eight minority languages and subsidized more than 20 cultural societies of national minorities. A variety of newspapers and magazines were published in the minority languages. A consultative council on nationalities had been set up, comprising representatives of 11 national minorities together with members of the parliamentary Standing Committee on Human Rights. An extensive sociological survey, conducted with UNDP assistance, would help in the preparation of a nationwide integration programme. The findings of that survey showed that many former Soviet citizens and their families, currently residing in Latvia, had not yet accepted the irreversibility of Latvian independence. Most of them had not, during the past 50 years, learnt the Latvian language, which made the integration problem extremely difficult to solve. The survey showed, further, that the difficulties associated with a transitional economy were the same for all social groups, irrespective of their ethnic origin. With that, the political situation in the country was stable.

14. Latvia had been unjustly accused, in the Commission itself, of applying double standards in the protection of human rights. In reality, the laws provided equal protection for all residents. Latvian nationality could not be taken away from people who had never had it. Furthermore, the acquisition of Latvian nationality had never been conditional upon ethnic origin. It was untrue to say that students could not obtain education in their mother tongue. Thousands of children were being taught in Russian, Polish, Hebrew, Estonian, Ukrainian and other languages at State-funded schools. A widespread anti-Latvian campaign had been launched in Russia and members of the Latvian diplomatic corps had been subjected to threats. Russia had also threatened Latvia with economic sanctions on the grounds that it was "not loyal enough to Russian interests". Such action would cause hardship to the entire population. The distortion of facts and deliberate falsehoods directed against Latvia would not help to improve bilateral relations. He personally remained ready to discuss all those human rights questions with the Russian Federation.

15. As the High Commissioner for Human Rights had pointed out that same morning, all States referred to during the work of the Commission should accept comments in a constructive way, and those commenting on others should accept that no State was without its human rights problems and avoid unnecessarily antagonistic statements and resolutions. It was vital for Latvia to ensure that human rights were respected both within and outside its boundaries and he therefore found it inadmissible that human rights should be used to promote other interests.

16. Latvia was an open society, which did not hide the problems it had inherited from a foreign regime and was therefore thankful to all countries and all organizations working with it to solve them in a spirit of mutual

respect and dignity. The progress it had already made in the development of its economy and in establishing a democratic system had been noticed and recognized, and it would continue to make its contribution to international action on behalf of peace, development and human rights.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE, (agenda item 4) (continued) (E/CN.4/1998/4 and Corr.1; E/CN./1998/7, 8, 17, 18, 19, 20, 112, 116, 124, 125, 128, 133, 134, 136, 137, 141; E/CN.4/1998/NGO/61)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 7) (continued) (E/CN.4/1998/30, 31, 125; E/CN.4/1998/NGO/30)

17. Mr. HYNES (Canada) expressed regret that, since the signing of the agreement on the Gaza Strip and the Jericho area, there had been no progress in the Middle East peace process and the human rights situation in the occupied Arab territories had not improved. The Canadian Minister for Foreign Affairs, who had visited the area in November 1997, had been struck by the difficult living conditions of people in refugee camps. In order to improve those conditions, Canada had announced in March 1998 a grant of $4 million to a World Bank reconstruction programme in the West Bank and Gaza. Canada was also endeavouring to ease and extend family reunification and to help towards a viable and comprehensive solution to the refugee problem. Human rights, sound government and democratic development were major themes of Canada's development cooperation programme in the occupied territories. It was working in particular with Palestinian and Israeli human rights organizations.

18. His delegation was still seriously concerned about Israeli practices in the occupied territories and was opposed to any unilateral action intended to predetermine the outcome of negotiations, including the establishment of settlements in the territories and unilateral moves to annex East Jerusalem and the Golan Heights. The designation of Palestinian residents of East Jerusalem as "resident aliens" and the withdrawal of their identity cards were contrary to international humanitarian law and to Israel's obligations under the Fourth Geneva Convention. The search for peace was further complicated by regular housing demolitions, as also by the closing of the occupied territories and the restrictions placed on travel between Palestinian areas, which had been a major cause of economic stagnation in the West Bank and Gaza. At the end of 1997 there had been 382 Palestinians held under an administrative detention order, of whom 138 had been detained for over a year and 40 had been children aged under 16 years. The application of "moderate physical pressure" as a method of interrogation was unacceptable, even if it had been approved by the Israeli Government and Supreme Court. Canada called upon Israel to renounce that practice, which had been condemned by the United Nations Committee against Torture.

19. Canada noted too that, despite some positive signs, such as the permission given for regular visits by the International Committee of the Red Cross, the commitment to prosecuting security officials suspected of violating the law, and the respect accorded to religious minorities, the human rights record of the Palestinian authority remained a matter for concern. Arbitrary arrests, torture, deaths in detention and secret and summary trials

were in conflict with the international norms that the authority had pledged itself to observe. Canada was ready to help in developing democratic institutions and to that end hoped to welcome in April 1998 a delegation from the Palestinian Legislative Council.

20. Finally, his delegation regretted that the Israeli authorities had not seen fit to give full collaboration to the Special Rapporteur on the human rights situation in the occupied Palestinian territories, and hoped that the Commission would take account of the Special Rapporteur's observations on his mandate and on the method of examination of that question by the Commission.

21. Mr. ALI (Malaysia) concurred with the assessment in the report (E/CN.4/1997/17) of the Special Rapporteur, Mr. Halinen, to the effect that the human rights situation in the occupied territories remained disturbing. The essential problem was the Israeli occupation of the Arab territories, which was illegal, constituted a grave violation of the right to self-determination, and entailed many consequences. For the maintenance of internal "peace", grave violations of human rights were tolerated to the point of becoming systemic. Furthermore, occupation had led to the virtual dismantling of the social infrastructure, and the closure of the territories, in particular, was affecting the family structure. Above all, the occupation had extinguished hope, in particular among the children.

22. The year 1998 was that of the fiftieth anniversary not only of the adoption of the Universal Declaration of Human Rights but also of the Palestinian tragedy, as well as the tenth anniversary of the intifada and the fifth anniversary of the signing of the Declaration of Principles on Interim Self-Government Arrangements. That Declaration, in the view of his delegation, had not received the level of attention that it deserved. It had represented a historic turning point in the Arab-Israeli conflict and provided an honourable framework for negotiation which had made possible the signing of the Hebron Protocol. Deploring the unilateral formulation of new conditions for the peace negotiations by the Netanyahu Government, which thus again called in question all the agreements concluded, his delegation urged that Government to respect the commitments it had undertaken.

23. His delegation strongly felt that, in view of the historical responsibility that the United Nations bore towards the Palestinian people, since it had been the Organization which had adopted resolution 181 partitioning Palestine, as President Arafat had recently pointed out, item 4 of the agenda should continue to have priority for annual consideration by the Commission. In conclusion, he urged the Israeli authorities to extend their full cooperation to the Special Rapporteur and to provide information on the implementation of the relevant resolutions of the Commission.

24. Mr. KHAN (Pakistan), speaking on item 7, said that in 1947 India had denied the inhabitants of Kashmir their right to self-determination, a right that had been reaffirmed by the Security Council in a number of resolutions, which had also confirmed that the "elections" held in the State of Jammu and Kashmir could not be assimilated to a vote on self-determination. The mission of the International Commission of Jurists that had visited Kashmir in 1994 had concluded that the State of Jammu and Kashmir had had the right, at the time of partition, to decide whether to accede to India or to Pakistan, as had

been recognized both by the Indian Government and by the United Nations; that that view was consistent with the principle according to which an entity freed from foreign domination had the right to choose the successor State it wished to join; and that that right was not comparable to the more debatable right of secession from an independent State, and remained currently exercisable.

25. The occupying power had always organized rigged elections and had committed massive human rights violations documented by numerous human rights defence organizations. Since 1990 more than 60,000 men, women and children had been killed by the occupying forces, thousands of rapes had been perpetrated as part of a strategy to demoralize the people of Kashmir, and entire towns had been set on fire by way of collective punishment.

26. Upon coming into office, the Prime Minister of Pakistan, Mr. Sharif, had extended to the Indian Government an offer of dialogue on the Kashmir question but, after all the necessary arrangements had been agreed to by both parties, the Indian Government had changed its mind and refused to take part. The only way to solve the problem of Kashmir was to allow its inhabitants to express their will freely through a fair and impartial plebiscite under the auspices of the United Nations and in accordance with the Security Council resolutions.

27. Mr. HASHMI (Pakistan), taking the floor on item 4, observed that the serious human rights violations that were still being committed in the occupied Arab territories were bound to undermine the Middle East peace process. He was convinced that there could be no lasting peace in the region without a peaceful settlement of the Palestine question, which meant that the inalienable rights of the Palestinian people must be protected and Israel must withdraw from the occupied territories. All attempts to alter the legal status and demographic composition of Jerusalem must be rejected. Any measures that postponed the application of the agreements concluded, circumscribed the basic rights of the Palestinian people and aggravated the oppression in the occupied territories could not but adversely affect the peace process.

28. He hoped that the Israeli Government would concede to the realities on the ground and apply itself to solving all pending issues with the Palestinian national authority. Finally, he appealed to the international community to provide emergency assistance to the Palestinian people and demonstrate its solidarity through the intermediary of the Commission.

29. Mr. NOUROU (Senegal) said that the current situation was marked by near-paralysis of the Middle East peace process and rising tension in the occupied Arab territories. Faced with those difficulties, the Commission must continue to encourage and consolidate the peace process through actions and attitudes calculated to inspire confidence among the Arab, Israeli and Palestinian populations. The Commission should, in particular, put out an appeal to the co-sponsors of the peace process and to the international community at large to undertake the most appropriate actions in order to save the peace process.

30. His delegation considered that the protagonists themselves should demonstrate their will to resume the peace negotiations. For that it was imperative that unilateral measures, in particular those in pursuance of the

Israeli policy of occupation of lands and forced settlement, should cease. It would be useful, also, for cooperation between Israelis and Palestinians to continue in regard to security, in order to step up the fight against terrorism and extremism of whatever leaning. Any damage to the credibility of the Palestinian authority must at all costs be avoided, for it represented the supreme embodiment of the peace process. Economic development of the Palestinian territories was also essential if peace was to be viable, for it was important that the living conditions of the Palestinian populations should be improved, particularly in the West Bank and the Gaza Strip. Finally, he saw an urgent need for greater involvement of the United Nations in the peace process in view not only of its historical responsibility in the handling of the Palestinian question and the role it played in providing education and information for the populations, but also of its activities in coordinating and intensifying assistance to the West Bank and Gaza.

31. In conclusion, his delegation considered it essential that the situation in regard to observance of human rights should rapidly improve in the occupied territories, that the problems posed by the spread of settlements should be solved, that the prisoners still held should be better treated, that housing demolitions should cease and that the practise of collective punishments should be relinquished. Senegal, which presided over the Committee on the Exercise of the Inalienable Rights of the Palestinian People, would for its part do everything in its power to facilitate the establishment of peace in the Middle East.

32. Mr. XIE Bohua (China) said that respect for the right to self-determination required, above all, the rejection of all forms of foreign aggression, interference and control, the safeguarding of national independence, sovereignty and territorial integrity, and the unfettered choice by each country's population of its own political and social system, economic development and road to development. All violations of the principle of the right to self-determination resulting from interference in a country's internal affairs by exerting political pressure, imposing economic sanctions or even resorting to armed invasion must be condemned by the international community. In accordance with the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted in 1960 by the United Nations General Assembly, the right to self-determination meant in essence the right of oppressed peoples to resist imperialism and foreign domination and to fight for their liberation and national independence. It was improper to apply that principle to a country's domestic affairs by interpreting it as the right to periodic and free elections or confusing it with systems or institutions of national autonomy.

33. His delegation considered it essential to oppose any activity conducted under the banner of the right to self-determination but in fact constituting a violation of that principle as defined in the Charter of the United Nations and the Vienna Declaration and Programme of Action. The great majority of countries being multi-ethnic, it was in everyone's interest to uphold a correct interpretation of the right to self-determination. In recent years, some people had made improper use of the Commission in order to distort the meaning of the principle of self-determination and advocate the dismemberment of sovereign states such as China. The separatists were in no way aiming at

promoting and protecting human rights. They were merely flouting the Charter of the United Nations and the basic principles of international law, and obstructing the work of the Commission.

34. His delegation appreciated the efforts made by the parties involved in the Middle East peace process to overcome the obstacles to the reopening of negotiations with due regard for the relevant resolutions of the United Nations and the agreements concluded. It was essential to arrive at a fair and comprehensive settlement of the Palestine question in order to bring peace and stability to the region.

35. Mr. FERNANDEZ PALACIOS (Cuba) observed that the right of every State to national sovereignty and of every people to self-determination were the very cornerstones of the legal order established by the United Nations. That right had been the rationale of the struggle which had been waged for decades by peoples against colonialism and which, though colonialism had now disappeared, must continue, for other forms of domination were threatening peoples under the banner of an alleged right to intervention. The exercise of the right of peoples to self-determination was an essential precondition for the realization of all human rights and, so long as foreign domination and occupation existed in certain countries, it would be pointless to talk about respect for those rights. Cuba, for its part, would continue to demand the restitution of the part of its territory occupied by the United States at Guantánamo against the wishes of the Cuban people.

36. The utilization of mercenaries, which was the subject of a report submitted to the Commission by Mr. Bernales Ballesteros (E/CN.4/1998/31), also constituted a means of violating human rights and undermining the exercise of peoples' right to self-determination. As that report made clear, such activities were indeed a reality and were even currently expanding; mercenaries were taking part in terrorist attacks and in drug and arms trafficking, all of which created situations conducive to serious human rights violations. Cuba, which for more than 30 years had been the victim of mercenary activities backed and financed by the United States, vigorously condemned the pursuit of such practices as contrary to the basic principles of international law and to the Charter of the United Nations. His delegation would therefore like the mandate of the Special Rapporteur on that question to be extended for a further three-year period and would submit a draft resolution on the subject.

37. Ms. SYAHRUDDIN (Indonesia) said that her country, which had been subjected to colonial domination for more than three centuries, placed very high value on the right to self-determination, which was the most important collective right. That was why Indonesia had always supported the just struggle of the Palestinian people to exercise that right and establish a sovereign state on their own territory. Respect for that principle was the necessary precondition for bringing peace and stability to the region and securing the fundamental rights of the Palestinian people. In that context, Indonesia reaffirmed its support for the Middle East peace process and the implementation of all the agreements signed between the parties concerned, together with the commitments made in pursuance of the decisions of the Madrid Peace Conference and the various United Nations resolutions on the question,

in particular Security Council resolutions 242 (1967), 338 (1973) and 425 (1978), and of the "land for peace" principle, conditions which demanded Israel's withdrawal from all the occupied Palestinian territories, including Al-Quds Al Sharif, occupied Syrian Golan and the occupied Lebanese territory, and the realization of the inalienable rights of the Palestinian people.

38. Mr. KANAVIN (Observer for Norway) noted that, in spite of the substantial assistance provided by the international community over recent years, living conditions in the occupied territories, particularly the Gaza Strip, were continuing to deteriorate, which showed that international aid must be coupled with the search for a political settlement by the parties to the conflict. The ultimate goal of the Middle East peace process was to establish democratic civil societies, living side by side in peace and security, whose members could exercise their right to self-determination. Violations of the letter and spirit of the peace agreements had often entailed serious human rights violations, which showed that any actions inimical to the implementation of the peace process were also obstacles to the effective exercise of human rights.

39. Norway urged the parties to refrain from any unilateral measures that would obstruct the "final status" negotiations, to safeguard both the letter and the spirit of the Oslo Agreements, and to intensify dialogue and cooperation between them in order to reactivate the peace process. It was their political and moral obligation to do so and thereby ensure a better future for their peoples. Norway for its part remained ready to help the parties move the peace process forward and improve the human rights situation in the countries concerned, in close cooperation with the international community and the United Nations.

40. Mr. AL-ATTAR (Observer for Yemen) noted that for years the Commission had been condemning the human rights violations committed by the Israeli forces in the occupied Palestinian territories, Syrian Arab Golan and southern Lebanon, and that innumerable resolutions to that effect had been adopted by the Security Council and General Assembly. In the latest of those, resolution A/RES/ES-10/4, adopted at its tenth extraordinary session on 13 November 1997, the General Assembly had recommended that the High Contracting Parties to the Fourth Geneva Convention should convene a conference on measures to be taken to enforce the Convention in the occupied Palestinian territory, including Jerusalem. But Israel continued to disregard it and was pursuing its policy of occupation associated with numerous high-handed actions, such as confiscation of lands, forcible expulsions and creation of settlements to alter the demographic composition of the territories, including Jerusalem, detention of Palestinians without trial and legal resort to torture during interrogations and at Israeli detention centres, which were recounted in full in the report of the Special Rapporteur on the situation of human rights in the occupied Palestinian territories (E/CN.4/1998/17), as also in the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and other Arabs of the Occupied Territories (A/52/131 and Add.1 and 2) or in the annual report for 1997 of Amnesty International.

41. It was evident that Israel was applying a systematic policy of apartheid in Palestine and the Commission should therefore look into the underlying

reasons for that policy and give the question priority in its agenda. It was imperative that Israel should be prevailed upon to apply strictly all the rules of international law. In conclusion, he thanked the Commission and Mrs. Robinson for their action on behalf of the Palestinian people.

42. Mr. KHORRAM (Observer for the Islamic Republic of Iran) said that the list of violations of human rights and fundamental freedoms committed by Israel in the occupied territories was far too long for them all to be cited. They were in any case only the tip of the iceberg, for Israel had done and would continue to do everything it could to deprive the Palestinian people of their legitimate right to self-determination and all their other rights. The very name of Israel in fact evoked occupation, repression and violation of human rights. The impunity that Israel had enjoyed for many years despite all its crimes was, moreover, proof of the selectivity and subjectivity displayed by certain countries. If, as they claimed, they were concerned for human rights, those countries should sponsor a draft resolution on the violations committed by Israel in the occupied territories. By remaining silent, they had encouraged Israel to continue its inhuman practices, extending to the legalization of torture in flagrant violation of the international human rights instruments, in particular the United Nations Convention against Torture, and had induced the Special Rapporteur on the situation of human rights in the occupied Palestinian territories not to report all the infringements recorded so as to avoid any possible accusation of bias.

43. It was nonetheless clear that one could not and should not trust Israel, which, in defiance of all the basic international standards and signed agreements, was continuing its policy of occupation, the root cause of all the human rights violations perpetrated. It was imperative that all the Islamic countries should unite their political and economic potential so as to put an end to Israel's crimes if they were to obviate further deterioration of the situation in the territories.

44. Mr. HASSAINE (Observer for Algeria) observed that since the Commission's fifty-third session the situation in the Middle East had shown little improvement. It had even markedly deteriorated owing to the intransigence of the current Israeli Government, which took no account of the commitments entered into by its predecessor, so that the peace process had been brought to a standstill. Israel was stubbornly refusing the Palestinians their right to a sovereign State, with Al-Quds as its capital, and was continuing its policy of building new settlements, in defiance of all the United Nations resolutions calling upon it to desist. Furthermore, the systematic resort to collective punishments, torture, arbitrary detention and extrajudicial execution in the Palestinian territories and in Syrian Arab Golan and southern Lebanon was totally at variance with the provisions of the 1949 Geneva Conventions, a fact which could not but be of concern to the international community. It was clear that the only way to resolve the conflict was through complete withdrawal of Israel from all the occupied Arab territories and the exercise by the Palestinian people of their right to establish a sovereign State. Israel could not continue appealing to the preservation of its own security as a pretext for threatening that of neighbouring countries, for peace and security could not be other than indivisible for all the peoples of the region.

45. Turning to the question of the Western Sahara, he said that Algeria had spared no effort to accord its full support to the Secretary-General's Special Envoy for the Sahara, Mr. James Baker, since his appointment in March 1997. It was Mr. Baker's endeavours which had made possible, after direct negotiations between the two parties, Morocco and the Frente POLISARIO, the conclusion of the Houston agreements, enabling the organization of a free, fair and impartial referendum to be once again considered. The current challenge was to put those agreements rapidly into effect, for any delay in the implementation of a settlement plan would have detrimental consequences for the Saharan people, who had been waiting so long to be able to decide their destiny freely and to have their legitimate rights restored. Algeria, in its capacity as observer, had spared and would spare no effort to help bring that process to completion, for on that, it still firmly believed, the stability and prosperity of the entire region depended.

46. Mr. LAMDAN (Observer for Israel) wished it first to be understood that his delegation was able to take part in the debate on item 4 thanks to the firm position taken in his statement as outgoing Chairman of the Commission by Ambassador Somol of the Czech Republic, who had clearly indicated that the Commission would not tolerate being made a forum for anti-Semitic remarks.

47. The time had come to set the record straight about human rights violations in "Palestine". Even the Special Rapporteur on the question seemed to have approached his task wearing blinkers, for in his report (E/CN.4/1998/17) he gave only one version of the facts and put forward allegations which he had not even checked and had got from Palestinian sources quite plainly desirous of vilifying Israel. Moreover, the Rapporteur went beyond his mandate, in particular when he tried to insinuate himself into the Middle East peace process. If he wanted the Israeli Government to receive him - and then only on condition that his mandate was amended - he would have to keep to the facts, the whole facts and nothing but the facts.

48. It should first be clearly pointed out who were those truly responsible for human rights violations committed in the territories. It must not be forgotten that, while the Oslo agreements of May 1994 and September 1995 had not appreciably changed the legal status of those territories, the fact remained that very wide civil powers had been transferred by Israel to the Palestinian authority, which had formally undertaken to comply with internationally accepted norms and principles of human rights and the primacy of law. It was the Palestinian Authority which was from then on to ensure the protection and well-being of about 90 per cent of the Palestinians in the West Bank and the Gaza Strip, meaning that it had 2.2 million people under its direct jurisdiction, and to run all the main institutions established for that purpose, including the courts, the penitentiary establishments and the police and security forces. Consequently, it was the Palestinian Authority which must answer for human rights violations committed in the areas placed under its authority and control, and Israel should therefore not be accused of them, as it generally was.

49. For confirmation one need only refer to the information which appeared in governmental reports, e.g. from the United States and Canada, or which came from human rights defence organizations and in particular from Palestinian sources such as the journal People's Rights, published by the Palestinian

Human Rights Monitoring Group. The observers were unanimous in finding that the Palestinian Authority applied a systematic policy of denial of human rights in violation of the Oslo agreements, of international human rights law and of the human rights provisions in the "Fundamental Law" of the Palestinian Authority. He referred to various articles published, for example, in People's Rights (August 1997) or The Palestine Human Rights Monitor (May-June 1997) which denounced among other things denial of the right to life, liberty and security of the person in the case of detainees, the practice of torture in Palestinian prisons, and extrajudicial executions, in particular of people suspected of cooperation with the Israeli authorities or selling land to Israelis, approved by the Palestinian Minister of Justice himself. Other fundamental rights were also constantly flouted, such as the right to a fair trial, as reported by Amnesty International, which had described Palestinian justice as "a travesty of justice". The same applied to freedom of expression or freedom of association. The media were censored and journalists who criticized the Palestinian Authority, and especially Yasser Arafat, were victims of molestation and illegal arrest. Political parties and their leaders, together with trade unionists, opposed to the Palestinian Authority and the PLO were also systematically harassed and there were reported to be, according to statistics supplied by the Mandela Institute, over 1,000 political detainees in Palestinian prisons and detention centres.

50. Furthermore, human rights activists were also subjected to intimidation and harassment and sometimes even arrested, as had been the Commissioner-General of the Independent Commission for Human Rights set up by Yasser Arafat in 1993, according to information given by Amnesty International in its annual report for 1997. Finally, racism and anti-Semitism were an integral part of the rhetoric of senior officials of the Palestinian Authority and permeated all the Palestinian media although, under the "Oslo II" agreements, the Palestinian Authority together with Israel had undertaken to proscribe incitement to racial hatred, including hostile propaganda.

51. It would perhaps not suit some members of the Commission that the veil was at last being lifted and the conspiracy of silence broken concerning human rights violations committed by the Palestinian Authority, for any criticism of that Authority and of the PLO was virtually taboo. Facts - even uncomfortable ones - nonetheless remained facts. There was no use, either, in arguing that the Palestinian Authority had little experience and still had much to learn. As the organization Human Rights Watch/Middle East had stated in a press release dated 3 October 1997, lack of resources or inadequate training could not justify or explain such disregard for the rule of law. The excesses committed showed the total lack of political will on the part of the Palestinian Authority's leadership to make human rights protection a priority. Those who claimed that the Palestinian Authority, not being at the head of an independent State, was not bound by international human rights instruments or the Geneva Conventions needed only to be reminded that the PLO and the Palestinian Authority were bound under the "Oslo II" agreement to respect human rights and apply the rules of international law. As, moreover, Pax Christi International had stressed in its report of July 1997 on the peace process, the Palestinian Authority had time and again declared its readiness to respect international conventions as if it governed an independent State. In any case, it had the obligation to respect human rights not subject to

waiver, i.e. those that were enshrined in international customary law which had binding force and was applicable to non-State entities such as the self-governing Palestinian territories.

52. In conclusion, he expressed the hope that the Commission, which had lost much of its credibility because of its selective and partisan approach to human rights in various parts of the globe, particularly the Middle East, would rise to the occasion of the fiftieth anniversary of the Universal Declaration and show it was capable of impartiality, determination and courage by daring to tackle the subject of the human rights violations committed by the Palestinian authority.

53. Mr. Selebi (South Africa) took the Chair.

54. Mr. GHASSAN (Observer for the Syrian Arab Republic) said that for the past 50 years Israel had been preventing the Palestinian people from enjoying their fundamental rights, including the right to self-determination, proclaimed in particular in the Charter of the United Nations and the Universal Declaration of Human Rights. It would be difficult for the Palestinians to celebrate the fiftieth anniversary of the Declaration when the Israeli occupation forces were demolishing their houses, confiscating their lands and killing their children. In face of that situation, it was the urgent duty of the Commission on Human Rights to find the means of compelling Israel to respect all the United Nations resolutions concerning the occupied territories so that, in particular, the Palestinians could create an independent State with Jerusalem as its capital.

55. Mr. DLAMINI (Observer for Swaziland) said that safeguarding the right of peoples to self-determination, which was enshrined in the Charter of the United Nations, was one of the priority tasks of the Organization. His delegation therefore urged the Commission to adopt the recommendations put forward by the Special Rapporteur, Mr. Bernales Ballesteros, in his report on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (E/CN.4/1998/31). The activities of mercenaries constituted a serious threat to peace and security in the developing countries, in particular in Africa. His Government therefore invited the African States to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. It also invited the Commission to extend the mandate of the Special Rapporteur and to keep the subject under review as a matter of priority.

56. Regarding the situation in the Middle East and occupied Palestine, his Government invited the international community and all parties concerned with the Middle East peace process to find ways of removing the obstacles impeding the opening of a constructive dialogue, in order to put an end to human rights violations in that region.

57. Mr. MOUSSAEV (Observer for Azerbaijan) remarked that in the Declaration on the Granting of Independence to Colonial Countries and Peoples, issued by the General Assembly in its resolution 1514 (XV), it was clearly stated that "Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes

and principles of the Charter of the United Nations". That accordingly meant that the right to self-determination was not a unilateral right to independence or a right to secession, except in the case, specified in the 1993 Vienna Declaration and Programme of Action, of non-self-governing territories and territories under illegal occupation, defined as such by the United Nations. It should be borne in mind in that connection that in 1974 the General Assembly had adopted resolution 3314 (XXIX) on the definition of aggression, which clearly laid down that the territory of a State must not be subjected to military occupation, nor be the object of acquisition by another State resulting from resort to force in contravention of the United Nations Charter.

58. It was contradictory, to say the least, that the principle of the right to self-determination should be invoked to justify military aggression against an independent State and the annexation of part of its territory. And yet, despite the relevant resolutions of the Security Council and the decisions taken by OSCE, the Council of Europe and other international organizations, the Republic of Armenia was still asserting that its armed conflict with Azerbaijan resulted from the struggle of the Armenian community in the Nagorny Karabakh region to exercise its right to self-determination. Clearly, that specific case involved not the exercise of the right to self-determination but a violation of Article 2, paragraph 4, of the Charter of the United Nations, which forbade the use of force against the territorial integrity and political independence of a Member State. Azerbaijan considered that, to obviate bloody conflicts which could lead to regional and international tension, the international community must be careful, whenever exercise of the right to self-determination was invoked, to distinguish between self-determination and aggression.

59. Mr. DE SANTA CLARA GOMEZ (Observer for Portugal) said that decolonization was one of the most outstandingly successful accomplishments of the United Nations. As everyone knew, the Charter of the United Nations affirmed the principle of self-determination of peoples in articles 1 and 55 and established a trusteeship system and a system for non-self-governing territories in Chapters XI and XII. The right to self-determination had later been reaffirmed in various General Assembly resolutions and in the initial articles of the two International Covenants on Human Rights adopted in 1966. Since the adoption, in 1960, of the Declaration on the Granting of Independence to Colonial Countries and Peoples, the majority of them had attained independence.

60. However, that task would not be fully accomplished as long as the remaining non-self-governing territories did not have the possibility of freely determining their future. The right to self-determination as proclaimed in the Charter of the United Nations and later in resolutions 1514 (XV) and 1541 (XV) of the General Assembly applied to all non-self-governing territories regardless of their surface area, geographical location, number of inhabitants or endowment in natural resources, and required the free expression of the will of their populations.

61. His delegation was sorry to have to raise once again in the Commission the question of East Timor, whose people were unjustly denied the possibility of exercising their right to self-determination. Though dispossessed by force

of its prerogatives, Portugal, in its capacity as administering Power, had repeatedly declared that it had no claim to sovereignty to East Timor and was anxious only for the completion of the decolonization process brutally interrupted by Indonesia's military invasion in 1975. Since then, the illegal occupation of the territory had been preventing the resumption of the process, in flagrant defiance of the Charter of the United Nations and the relevant resolutions of the Security Council and General Assembly.

62. Under international law, Portugal continued to be bound by its responsibilities in regard to promoting and guaranteeing the right to self-determination of the people of East Timor. Negotiations were taking place between Portugal and Indonesia, under the auspices of the Secretary-General, in order to arrive at a just, comprehensive and internationally acceptable settlement. He invited the Commission to encourage those negotiations, as also the dialogue currently proceeding between all the parties in Timor, so that decisive measures would soon be taken to allow the Timorese free exercise of their right to self-determination.

63. Mr. ADAMA DIENG (International Commission of Jurists) speaking on items 7 and 4 of the agenda, said that in 1961 the United Nations General Assembly had appealed for the cessation of practices which deprived the Tibetan people of their fundamental human rights and freedoms, including their right to self-determination. Today those rights and liberties continued to be ignored by China, which had stepped up its repression. Over 600 Tibetans were currently detained for peacefully demonstrating in favour of independence. Chinese leaders had labelled Buddhism a "foreign culture" and declared "total war" on the Dalai Lama. Tibet's alleged "autonomy" was a fiction but the occupation of Tibet by China was a reality. China was trying to alter the demographic composition of Tibet by encouraging Chinese to settle in Tibetan territory.

64. The Tibetans in fact constituted a "people under alien subjugation", who were therefore entitled to exercise their right to self-determination in order to choose freely, through a referendum supervised by the United Nations, between the maintenance of their current status, genuine autonomy and full independence. The International Commission of Jurists (ICJ) was accordingly recommending that the United Nations Secretary-General should initiate the process by appointing a special envoy to broker a peaceful settlement of the question of Tibet. All States and other international actors should refrain from taking a position on the status of Tibet until such a referendum had taken place.

65. Regarding the human rights situation in the West Bank and Gaza, the ICJ was deeply concerned at the policy pursued by Israel towards the Palestinians: illegal creation of settlements, legalization and systematic practice of torture, constant resort to administrative detention, summary executions and illegal destruction of property. The international community must continue to call upon Israel to respect international human rights law and international humanitarian law, in particular the Geneva Conventions, and to grant entry to the Commission's Special Rapporteur.

66. Where the areas controlled by the Palestinian Authority were concerned, the ICJ viewed with concern the reports of deaths in detention, torture and

arbitrary arrests. It was also concerned at the restrictions on freedom of expression and assembly. The Palestinian Authority must take concrete measures to ensure respect for basic freedoms and human rights. As for the governments that were putting pressure on the Palestinian authority to combat terrorism more energetically, they should realize that even in fighting the crime of terrorism the rule of law must be respected.

67. Mr. HAFIAMA (Observer for the Libyan Arab Jamahiriya) said that Israel was endeavouring very actively, with the help of one country only, the United States, to persuade the Commission to reduce the importance accorded to agenda item 4 or even to delete it, on the grounds that the situation in Palestine was currently comparable to the situation that had existed in South Africa after the abolition of apartheid. To see that that was untrue, one needed only to read the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/51/131), which enumerated all the violations committed by Israel: confiscation of land, demolition of houses, looting of natural resources, assaults upon the Palestinian cultural and religious heritage, etc.

68. Some people were trying to make public opinion believe that it was the Arabs who, by their intransigence, were holding up the peace process and that the Israelis were honouring their commitments. In reality it was Israel, the occupying power, which denied the identity of the Palestinian people and which, regarding itself as God's chosen people, was putting itself above all the international laws established by human beings.

Statements in exercise of the right of reply

69. Mr. DA COSTA E SILVA (Observer for Angola) recognized the invaluable role played by NGOs in the protection and promotion of human rights and fundamental freedoms and their contribution to the work of the Commission. He nonetheless thought that it might be desirable to review the criteria for accreditation applied to some of them and to define more clearly the limits of their participation in the debates so as to obviate any politicization of human rights.

70. Thus it might seem surprising that Mr. Xavier Builo should have taken the floor at the Commission's previous meeting as representative of the United Towns Agency for North-South Cooperation whereas he had spoken in July 1997 before the Sub-Commission on Prevention of Discrimination and Protection of Minorities in the name of another NGO, specifically the International Association of Educators for World Peace. What was more, Mr. Builo had no authority, from the viewpoint of public international law, to speak of the right to self-determination of the people of Cabinda, since Cabinda was an integral part of Angola, which had been independent since 1975. According to the rules of international law, the geographical configuration of countries as it existed at the time they attained independence remained unaltered. General Assembly resolution 1514 (XV) of 14 December 1960 made reference to colonial peoples and was therefore not applicable in the case cited.

71. As to the allegations of systematic human rights violations perpetrated against the population of Cabinda, they were unfounded inasmuch as the sundry rapporteurs and working groups of the Commission and the Sub-Commission, as also the treaty bodies, had recognized the efforts exerted by Angola in the field of protection and promotion of human rights. It was clear that the assertions of Mr. Builo and the United Towns Agency for North-South Cooperation were baseless and took no account of the methods of work of the Commission on Human Rights.

72. Mr. BENJELLOUN-TOUIMI (Morocco) said that, contrary to what Centre Europe-Tiers Monde had tried to make the Commission believe at the previous meeting, Morocco was not against the holding of a referendum in the Western Sahara; it was Morocco itself which had called for the organization of that referendum, which it hoped would be held as soon as possible. His delegation would also like to point out that the Moroccan press could express itself freely, including on the question of the Western Sahara, and that Morocco was a democratic country which practised peaceful changeover of power, as evidenced by the recent accession to office of the new Prime Minister.

73. Mr. NABIL RAMLAWI (Observer for Palestine) said that the representative of Israel had spoken at length under item 4 of the agenda without saying a single word about the human rights violations committed in the occupied Arab territories by the Israeli forces, in particular the arbitrary arrests, acts of torture, murders and collective punishments.

74. The representative of Israel had tried to depict himself as a defender of the Palestinian people, but nobody had been taken in by that crude trick. The same remark applied to the statement by the United States delegation: everyone knew that Israel and the United States were the two sides of one and the same coin.

75. Ms. SYAHRUDDIN (Indonesia) said that the people of East Timor had already exercised their right to self-determination, in accordance with resolutions 1514 (XV) and 1541 (XV) of the United Nations General Assembly, when their duly elected representatives had formally asked, on 31 May 1976, for the incorporation of East Timor into Indonesia, which had accepted that request on 17 July 1976.

76. Furthermore, in the judgement dated 30 June 1995 that it had handed down in the case concerning East Timor (Portugal v. Australia), the International Court of Justice had, by 14 votes to 3, refused Portugal's claim to be recognized as administering Power for East Timor. In a separate opinion, Judge Shigeru Oda had gone still further, declaring: "The United Nations, when dealing with the problem of East Timor since 1976, has never indicated that Portugal should have the right and the duty to administer this area as a non-self-governing territory ... there has not been any reason to assume that Portugal has, since the late 1970s and up to the present time, been entrusted with the rights and responsibilities of an administering Power for the non-self-governing territory of East Timor". That being said, the Indonesian Government remained interested in the continuation of the dialogue initiated under the auspices of the United Nations Secretary-General with a view to achieving a just, comprehensive and internationally acceptable settlement of the question.

77. Mr. DE SANTA CLARA GOMEZ (Observer for Portugal) said that according to the terms of the judgement cited by the Indonesian delegation, the General Assembly, which had reserved the right to determine which territories were to be considered as non-self-governing for the purposes of the application of chapter XI of the Charter, had treated East Timor as a territory possessing that status. The competent subsidiary bodies of the General Assembly had continued to treat East Timor as such until the current date. Moreover, the Security Council, in its resolutions 384 (1975) and 389 (1976), had expressly demanded that the territorial integrity of East Timor and the inalienable right of its people to self-determination should be respected, in accordance with General Assembly resolution 1514 (XV).

The meeting rose at 6.15 p.m.